

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division

JOHN COREY FRASER, et al., on behalf  
of themselves and all others  
similarly situated as a Class,  
Plaintiffs,

v.

No. 3:22-cv-410

BUREAU OF ALCOHOL, TOBACCO,  
FIREARMS AND EXPLOSIVES, et al.,  
Defendants.

ORDER

Having reviewed PLAINTIFFS' MOTION FOR CLASS CERTIFICATION (ECF No. 56), PLAINTIFFS' MEMORANDUM OF LAW IN SUPPORT OF CLASS CERTIFICATION (ECF No. 58), DEFENDANTS' OPPOSITION TO PLAINTIFFS' [sic] MOTION FOR CLASS CERTIFICATION (ECF No. 61), and PLAINTIFFS' REPLY TO THE DEFENDANTS' RESPONSE IN OPPOSITION TO CLASS CERTIFICATION (ECF No. 64), the Court concludes: (a) that the Plaintiffs have not definitively specified under which aspect of Federal Rule of Civil Procedure 23(b) class certification is sought; and (b) neither party has adequately addressed why this class is appropriate is for class certification, or is not appropriate for class certification, under each of the permissible avenues of class certification permitted by Federal Rule of Civil Procedure 23(b).

In addition, the parties have failed fully to address the


question of "nationwide" or "universal" injunctive relief, particularly in perspective of the opinions addressing that question in Trump v. Hawaii, 138 S.Ct. 2392 (2018), Casa de Maryland, Inc v. Trump, 971 F.3d 220 (4th Cir. 2020),<sup>1</sup> and Dept. of Homeland Sec. v. New York, 140 S.Ct. 599 (2020) and the authorities therein cited. Nor has either party adequately considered the thoughts of the various law review articles cited therein and published elsewhere or of the leading treatises on class actions. Therefore, it is hereby ORDERED that:

(1) On July 17, 2023 by 5:00 pm, Plaintiffs shall file an amended brief in support of class certification and specify the injunctive and declaratory requested if the motion for class certification is denied; and

(2) On July 28, 2023 by 5:00 pm, the Government shall file a response; and

(3) On August 4, 2023 by 5:00 pm, the Plaintiffs shall file a reply.

It is SO ORDERED.

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/s/   
Robert E. Payne  
Senior United States District Judge

Richmond, Virginia  
Date: July 7, 2023

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<sup>1</sup> The Court is aware that the panel opinion in Casa de Maryland, 971 F.3d 220, was vacated by virtue of an order granting rehearing en banc, 981 F.3d 311, and thereafter the entire appeal was dismissed. Nonetheless, the thoughtful opinion of the majority necessitates consideration in perspective of the opinions in Trump, 138 S.Ct. 2392 and Dept. of Homeland Sec., 140 S.Ct. 599.